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Date: February 6, 2006

Signed:

Linda Phillips
Linda Phillips

PATENT
Customer No. 22,852
Attorney Docket No. 07303.0127-00000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
Michael SOGARD)
Application No.: 10/038,342) Group Art Unit: 1639
Filed: October 23, 2001) Examiner: Mark Lance SHIBUYA
For: METHODS AND DEVICES FOR) Confirmation No.: 7706
HYBRIDIZATION AND BINDING)
ASSAYS USING THERMOPHORESIS)

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

RESPONSE TO RESTRICTION REQUIREMENT

Claims 33-41, 43, 44, and 47-52 are pending. In a restriction requirement, mailed January 4, 2006, the Examiner required Applicant to elect a single disclosed species for prosecution on the merits. The Office maintained that the claims are directed to the following patentably distinct species: a luminescent label, a fluorescent label, and a secondary label. Applicant respectfully disagrees and traverses the restriction requirement.

THE RESTRICTION REQUIREMENT IS IMPROPER

MPEP §803 mandates two criteria for a proper restriction requirement: